

FIRST REGULAR SESSION

# HOUSE BILL NO. 433

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BARTLE.

Read 1<sup>st</sup> time January 18, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1273L.011

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### AN ACT

To repeal sections 87.288, 141.265, 142.027, 142.029, 173.710, 192.010, 192.320, 199.020, 199.025, 208.169, 414.412, 414.420, 630.461, 640.169, 640.170, 640.172, 640.175, 640.177, 640.179, 640.180, 640.182, 640.185, 640.195, 640.200, 640.203, 640.205, 640.207, 640.210, 640.212, 640.215, 640.218, 660.053, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.418 and 660.420, RSMo 2000, and to enact in lieu thereof sixteen new sections for the purpose of repealing expired provisions of law, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 87.288, 141.265, 142.027, 142.029, 173.710, 192.010, 192.320, 199.020, 199.025, 208.169, 414.412, 414.420, 630.461, 640.169, 640.170, 640.172, 640.175, 640.177, 640.179, 640.180, 640.182, 640.185, 640.195, 640.200, 640.203, 640.205, 640.207, 640.210, 640.212, 640.215, 640.218, 660.053, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.418 and 660.420, RSMo 2000, are repealed and sixteen new sections enacted in lieu thereof, to be known as sections 87.288, 142.029, 192.320, 208.169, 414.412, 414.420, 660.053, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.418 and 660.420, to read as follows:

87.288. 1. Any person who served as a fireman who is retired and not receiving a cost-of-living benefit and any widow or dependent child receiving retirement benefits, but not receiving a cost-of-living benefit shall be made, constituted, and appointed as a special consultant on the problems of retirement, aging, and other state matters, and be available to give opinion in writing or orally, in response to such requests as may be required and for such services

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

6 shall be compensated annually in accordance with the provisions of subsection 2 of this section.

7       2. Effective September 1, 1996, and annually thereafter, one-half of the annual interest  
8 earned in the future benefits fund [created under section 87.287] shall be appropriated to provide  
9 an ad hoc COLA administered by the board of trustees and from September 1, 2016, and  
10 annually thereafter three-fourths of the annual interest earned in the future benefits fund [created  
11 under section 87.287] shall be appropriated to provide an ad hoc COLA administered by the  
12 board of trustees based upon the formula in this subsection. The distributable amount shall be  
13 divided by the number of retirees and surviving spouses and dependent children eligible to  
14 receive the ad hoc COLA under this provision calculated and distributed based upon the  
15 following years of service:

16       (1) Members retiring with thirty or more years of service shall receive a full share of the  
17 distributable amount;

18       (2) Members retiring with twenty-five or more years of service but less than thirty years  
19 shall receive a three-quarter share of the distributable amount;

20       (3) Members retiring with less than twenty-five years shall receive a one-half share of  
21 the distributable amount;

22       (4) Surviving spouses and dependent children shall receive one-half of the ad hoc COLA  
23 the member would have been entitled to receive.

142.029. 1. [Section 142.027 shall become effective only if the normal federal-aid funds  
2 apportioned to Missouri under the Federal-Aid Highway Act of 1987 exceed the eighty-five  
3 percent minimum guarantee as defined in Section 124 of that act. Section 142.027 shall become  
4 effective on July first of the year following the federal fiscal year for which the funds were  
5 apportioned.

6       2.] Section 142.028 shall become effective July 1, 1989.

7       [3. Section 142.027 shall expire on June 30, 1996.]

8       2. Section 142.028 shall expire on December 31, 2007.

192.320. Any person or persons violating any of the provisions of sections [192.010,  
2 192.020 to 192.490, 192.600 to 192.620 or who shall leave any pesthouse, or isolation hospital,  
3 or quarantined house or place without the consent of the health officer having jurisdiction, or  
4 who evades or breaks quarantine or knowingly conceals a case of contagious, infectious, or  
5 communicable disease, or who removes, destroys, obstructs from view, or tears down any  
6 quarantine card, cloth or notice posted by the attending physician or by the health officer, or by  
7 direction of a proper health officer, shall be deemed guilty of a class A misdemeanor.

208.169. [1.] Notwithstanding other provisions of this chapter, including but not limited  
2 to sections 208.152, 208.153, 208.159 and 208.162[:

3       (1) There shall be no revisions to a facility's reimbursement rate for providing nursing

4 care services under this chapter upon a change in ownership, management control, operation,  
5 stock, leasehold interests by whatever form for any facility previously licensed or certified for  
6 participation in the Medicaid program. Increased costs for the successor owner, management  
7 or leaseholder that result from such a change shall not be recognized for purposes of  
8 reimbursement;

9 (2) In the case of a newly built facility or part thereof which is less than two years of age  
10 and enters the Title XIX program under this chapter after July 1, 1983, a reimbursement rate  
11 shall be assigned based on the lesser of projected estimated operating costs or one hundred ten  
12 percent of the median rate for the facility's class to include urban and rural categories for each  
13 level of care including ICF only and SNF/ICF. The rates set under this provision shall be  
14 effective for a period of twelve months from the effective date of the provider agreement at  
15 which time the rate for the future year shall be set in accordance with reported costs of the  
16 facility recognized under the reimbursement plan and as provided in subdivisions (3) and (4) of  
17 this subsection. Rates set under this section may in no case exceed the maximum ceiling  
18 amounts in effect under the reimbursement regulation;

19 (3) Reimbursement for capital related expenses for newly built facilities entering the  
20 Title XIX program after March 18, 1983, shall be calculated as the building and building  
21 equipment rate, movable equipment rate, land rate, and working capital rate.

22 (a) The building and building equipment rate will be the lower of:

23 a. Actual acquisition costs, which is the original cost to construct or acquire the building,  
24 not to exceed the costs as determined in section 197.357, RSMo; or

25 b. Reasonable construction or acquisition cost computed by applying the regional Dodge  
26 Construction Index for 1981 with a trend factor, if necessary, or another current construction cost  
27 measure multiplied by one hundred eight percent as an allowance for fees authorized as  
28 architectural or legal not included in the Dodge Index Value, multiplied by the square footage  
29 of the facility not to exceed three hundred twenty-five square feet per bed, multiplied by the ratio  
30 of forty minus the actual years of the age of the facility divided by forty; and multiplied by a  
31 return rate of twelve percent; and divided by ninety-three percent of the facility's total available  
32 beds times three hundred sixty-five days.

33 (b) The maximum movable equipment rate will be fifty-three cents per bed day.

34 (c) The maximum allowable land area is defined as five acres for a facility with one  
35 hundred or less beds and one additional acre for each additional one hundred beds or fraction  
36 thereof for a facility with one hundred one or more beds.

37 (d) The land rate will be calculated as:

38 a. For facilities with land areas at or below the maximum allowable land area, multiply  
39 the acquisition cost of the land by the return rate of twelve percent, divide by ninety-three percent

40 of the facility's total available beds times three hundred sixty-five days.

41       b. For facilities with land areas greater than the maximum allowable land area, divide  
42 the acquisition cost of the land by the total acres, multiply by the maximum allowable land area,  
43 multiply by the return rate of twelve percent, divide by ninety-three percent of the facility's total  
44 available beds times three hundred sixty-five days.

45       (e) The maximum working capital rate will be twenty cents per day;

46       (4) If a provider does not provide the actual acquisition cost to determine a  
47 reimbursement rate under subparagraph a. of paragraph (a) of subdivision (3) of subsection 1 of  
48 this section, the sum of the building and building equipment rate, movable equipment rate, land  
49 rate, and working capital rate shall be set at a reimbursement rate of six dollars;

50       (5)], for each state fiscal year a negotiated trend factor shall be applied to each facility's  
51 Title XIX per diem reimbursement rate. The trend factor shall be determined through  
52 negotiations between the department and the affected providers and is intended to hold the  
53 providers harmless against increase in cost. In no circumstances shall the negotiated trend factor  
54 to be applied to state funds exceed the health care finance administration market basket price  
55 index for that year. The provisions of this subdivision shall apply to fiscal year 1996 and  
56 thereafter.

57       [2. The provisions of subdivisions (1), (2), (3), and (4) of subsection 1 of this section  
58 shall remain in effect until July 1, 1989, unless otherwise provided by law.]

414.412. 1. The director may reduce any percentage specified or waive the requirement  
2 of subsection 3 of section 414.410 for any state agency upon receipt of certification supported  
3 by evidence acceptable to the director that:

4       (1) The agency's vehicles will be operating primarily in an area in which neither the  
5 agency nor a supplier has or can reasonably be expected to have a central refueling station for  
6 alternative fuels; or

7       (2) The agency is unable to acquire or operate vehicles within the cost limitations of  
8 section 414.400 or section 414.415; or

9       (3) The use of alternative fuels would not meet the energy conservation and exhaust  
10 emissions reduction criteria of subsection 2 of section 414.410.

11       2. State agencies shall submit information describing the acquisition and use of vehicles  
12 capable of using alternative fuels to the department in a format prescribed by the department.  
13 The report shall include for each vehicle model capable of using alternative fuel:

14       (1) The types of alternative fuels used;

15       (2) The number of miles traveled using alternative fuels and the ratios to the total  
16 numbers of miles traveled;

17       (3) The number of vehicles owned which are capable of using alternative fuels;

18 (4) Maintenance costs.

19 3. Each state-owned vehicle equipped to operate on gasoline, other than vehicles using  
20 alternative fuel, shall use a fuel ethanol blend [as defined in section 142.027, RSMo,] when  
21 available at a competitive price, as its motor fuel, unless the United States Environmental  
22 Protection Agency, or the governor by executive order, promulgates rules which prohibit, limit  
23 or otherwise regulate the use of ethanol-blended fuels in ozone nonattainment areas, as defined  
24 by Section 107 of the federal Clean Air Act, as amended, or in an area designated as a  
25 maintenance area for ozone under Section 175A of the federal Clean Air Act, as amended,  
26 state-owned vehicles shall not be required to use a fuel ethanol blend.

414.420. There is hereby created the "Missouri Ethanol and Other Renewable Fuel  
2 Sources Commission" composed of seven members, including two members of the senate of  
3 different political parties appointed by the president pro tem of the senate, two members of the  
4 house of representatives of different political parties appointed by the speaker of the house, and  
5 three other persons appointed by the governor, with the advice and consent of the senate. The  
6 members appointed by the governor may include, but are not limited to, persons engaged in the  
7 ethanol production industry and no more than two of such members shall be of the same political  
8 party. The members appointed by the governor shall be appointed for a term of four years,  
9 except that of the first members appointed, one shall serve for a term of two years, one shall  
10 serve for a term of three years, and one shall serve for a term of four years. Vacancies in the  
11 membership of the commission shall be filled in the same manner as the original appointments.  
12 The commission shall elect a member of its own group as chairman at the first meeting, which  
13 shall be called by the governor. The commission shall meet at least four times in a calendar year  
14 at the call of the chairman. The commission shall promote the continued production of ethanol  
15 and the continued usage of ethanol and fuel ethanol blends[, as defined in section 142.027,  
16 RSMo,] and the production and usage of other renewable fuel sources, in this state. The  
17 commission shall report to each regular session of the general assembly its recommendations for  
18 legislation in the field of the promotion of the ethanol industry and related subjects in this state.  
19 Members of the commission shall serve without compensation but shall be reimbursed for actual  
20 and necessary expenses incurred in the performance of their duties.

660.053. As used in [section 199.025, RSMo, and] sections 660.050 to 660.057 and  
2 660.400 to 660.420, the following terms mean:

3 (1) "Area agency on aging", the agency designated by the division in a planning and  
4 service area to develop and administer a plan and administer available funds for a comprehensive  
5 and coordinated system of services for the elderly and handicapped persons who require similar  
6 services;

7 (2) "Area agency board", the local policymaking board which directs the actions of the

- 8 area agency on aging under state and federal laws and regulations;
- 9 (3) "Director", the director of the division of aging of the Missouri department of social  
10 services;
- 11 (4) "Division", the division of aging of the Missouri department of social services;
- 12 (5) "Elderly" or "elderly persons", persons who are sixty years of age or older;
- 13 (6) "Handicap" or "handicapped", a mental or physical impairment that substantially  
14 limits one or more major life activities, whether the impairment is congenital or acquired by  
15 accident, injury or disease, where such impairment is verified by medical findings;
- 16 (7) "Local government", a political subdivision of the state whose authority is general  
17 or a combination of units of general purpose local governments;
- 18 (8) "Major life activities", functions such as caring for one's self, performing manual  
19 tasks, walking, seeing, hearing, speaking, breathing, learning, and working;
- 20 (9) "Medicaid", medical assistance provided under section 208.151, RSMo, et seq., in  
21 compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42  
22 USC 301 et seq.), as amended;
- 23 (10) "Protective services", a service provided by the Missouri division of aging in  
24 response to the need for protection from harm or neglect to eligible adults under sections 660.250  
25 to 660.295.

660.400. As used in sections [199.025, RSMo, and] 660.403 to 660.420, unless the  
2 context clearly indicates otherwise, the following terms mean:

- 3 (1) "Adult", an individual over the age of eighteen;
- 4 (2) "Adult day care program", a group program designed to provide care and supervision  
5 to meet the needs of functionally impaired adults for periods of less than twenty-four hours but  
6 more than two hours per day in a place other than the adult's own home;
- 7 (3) "Adult day care provider", the person, corporation, partnership, association or  
8 organization legally responsible for the overall operation of the adult day care program;
- 9 (4) "Department", the department of social services;
- 10 (5) "Director", the director of the division of aging;
- 11 (6) "Division", the division of aging;
- 12 (7) "Functionally impaired adult", an adult who by reason of age or infirmity requires  
13 care and supervision;
- 14 (8) "License", the document issued by the division in accordance with the provisions of  
15 sections [199.025, RSMo, and] 660.403 to 660.420 to an adult day care program which  
16 authorizes the adult day care provider to operate the program in accordance with the provisions  
17 of sections [199.025, RSMo, and] 660.403 to 660.420 and the applicable rules promulgated  
18 pursuant thereto;

19 (9) "Participant", a functionally impaired adult who is enrolled in an adult day care  
20 program;

21 (10) "Person", any individual, firm, corporation, partnership, association, agency, or an  
22 incorporated or unincorporated organization regardless of the name used;

23 (11) "Provisional license", the document issued by the division in accordance with the  
24 provisions of sections [199.025, RSMo, and] 660.403 to 660.420 to an adult day care provider  
25 which is not currently meeting the requirements necessary to obtain a license;

26 (12) "Related", any of the following by blood, marriage or adoption: parent, child,  
27 grandchild, brother, sister, half-brother, half-sister, stepparent, uncle, aunt, niece, nephew, or first  
28 cousin;

29 (13) "Staff participant ratio", the number of adult care staff required by the division in  
30 relation to the number of adults being cared for by such staff.

660.403. 1. It shall be unlawful for any person to establish, maintain, or operate an adult  
2 day care program, or to advertise or hold himself out as being able to perform any adult day care  
3 service, unless he has obtained the proper license.

4 2. All applications for licenses shall be made on forms provided by the division and in  
5 the manner prescribed by the division. All forms provided shall include a fee schedule.

6 3. The division shall conduct an investigation of the adult day care program, and the  
7 applicant, for which a license is sought in order to determine if such program is complying with  
8 the following:

9 (1) Local fire safety requirements or fire safety requirements of the division if there are  
10 no local codes;

11 (2) Local or state sanitation requirements;

12 (3) Local building and zoning requirements, where applicable;

13 (4) Staff/adult ratios required by the division; and

14 (5) Other applicable provisions of sections [199.025, RSMo, and] 660.403 to 660.420  
15 and all applicable rules promulgated pursuant thereto, including but not limited to:

16 (a) The applicant's ability to render adult day care;

17 (b) The proposed plan for providing adult day care;

18 (c) The proposed plan of operation of the adult day care program, so that, in the  
19 judgment of the division, minimum standards are being met to insure the health and safety of the  
20 participants.

21 4. Following completion of its investigation made pursuant to subsection 3 of this  
22 section and a finding that the applicant for a license has complied with all applicable rules  
23 promulgated pursuant to sections [199.025, RSMo, and] 660.403 to 660.420 the division shall  
24 issue a license to such applicant. Such license shall be valid for the period designated by the

25 division, which period shall not exceed two years from the date of issuance, for the premises and  
26 persons named in the application.

27         5. Each license issued under sections [199.025, RSMo, and] 660.403 to 660.420 shall  
28 include the name of the provider, owner and operator; the name of the adult day care program;  
29 the location of the adult day care program; the hours of operations; the number and any  
30 limitations or the type of participants who may be served; and the period for which such license  
31 is valid.

32         6. The division may issue a provisional license to an adult day care program that is not  
33 currently meeting requirements for a license but which demonstrates the potential capacity to  
34 meet full requirements for license; except that, no provisional license shall be issued unless the  
35 director is satisfied that the operation of the adult day care program is not detrimental to the  
36 health and safety of the participants being served. The provisional license shall be nonrenewable  
37 and shall be valid for the period designated by the division, which period shall not exceed six  
38 months from the date of issuance. Upon issuance of a regular license, a day care program's  
39 provisional license shall immediately be null and void.

       660.405. 1. The provisions of sections [199.025, RSMo, and] 660.403 to 660.420 shall  
2 not apply to the following:

3         (1) Any adult day care program operated by a person in which care is offered for no more  
4 than two hours per day;

5         (2) Any adult day care program maintained or operated by the federal government except  
6 where care is provided through a management contract;

7         (3) Any person who cares solely for persons related to the provider or who has been  
8 designated as guardian of that person;

9         (4) Any adult day care program which cares for no more than four persons unrelated to  
10 the provider;

11         (5) Any adult day care program licensed by the department of mental health under  
12 chapter 630, RSMo, which provides care, treatment and habilitation exclusively to adults who  
13 have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental  
14 disability as defined;

15         (6) Any adult day care program administered or maintained by a religious not for profit  
16 organization serving a social or religious function if the adult day care program does not hold  
17 itself out as providing the prescription or usage of physical or medical therapeutic activities or  
18 as providing or administering medicines or drugs.

19         2. Nothing in this section shall prohibit any person listed in subsection 1 of this section  
20 from applying for a license or receiving a license if the adult day care program owned or operated  
21 by such person conforms to the provisions of sections [199.025, RSMo, and] 660.403 to 660.420



22 and all applicable rules promulgated pursuant thereto.

660.407. 1. The director, or his authorized representative, shall have the right to enter  
2 the premises of an applicant for or holder of a license at any time during the hours of operation  
3 of a center to determine compliance with provisions of sections [199.025, RSMo, and] 660.403  
4 to 660.420 and applicable rules promulgated pursuant thereto. Entry shall also be granted for  
5 investigative purposes involving complaints regarding the operations of an adult day care  
6 program. The division shall make at least two inspections per year, at least one of which shall  
7 be unannounced to the operator or provider. The division may make such other inspections,  
8 announced or unannounced, as it deems necessary to carry out the provisions of sections  
9 [199.025, RSMo, and] 660.403 to 660.420.

10 2. The applicant for or holder of a license shall cooperate with the investigation and  
11 inspection by providing access to the adult day care program, records and staff, and by providing  
12 access to the adult day care program to determine compliance with the rules promulgated  
13 pursuant to sections [199.025, RSMo, and] 660.403 to 660.420.

14 3. Failure to comply with any lawful request of the division in connection with the  
15 investigation and inspection is a ground for refusal to issue a license or for the suspension or  
16 revocation of a license.

17 4. The division may designate to act for it, with full authority of law, any instrumentality  
18 of any political subdivision of the state of Missouri deemed by the division to be competent to  
19 investigate and inspect applicants for or holders of licenses.

660.409. Each application for a license, or the renewal thereof, issued pursuant to  
2 sections [199.025, RSMo, and] 660.403 to 660.420 shall be accompanied by a nonrefundable fee  
3 in the amount required by the division. The fee, to be determined by the director of the division,  
4 shall not exceed one hundred dollars and shall be based on the licensed capacity of the applicant.

660.411. The division shall offer technical assistance or consultation to assist applicants  
2 for or holders of licenses or provisional licenses in meeting the requirements of sections  
3 [199.025, RSMo, and] 660.403 to 660.420, staff qualifications, and other aspects involving the  
4 operation of an adult day care program, and to assist in the achievement of programs of  
5 excellence related to the provision of adult day care.

660.414. 1. Whenever the division is advised or has reason to believe that any person  
2 is operating an adult day care program without a license, or provisional license, or that any holder  
3 of license, or provisional license is not in compliance with the provisions of sections [199.025,  
4 RSMo, and] 660.403 to 660.420, the division shall make an investigation and inspection to  
5 ascertain the facts. If the division is not permitted access to the adult day care program in  
6 question, the division may apply to the circuit court of the county in which the program is located  
7 for an order authorizing entry for inspection. The court shall issue the order if it finds reasonable

8 grounds necessitating the inspection.

9       2. If the division finds that the adult day care program is being operated in violation of  
10 sections [199.025, RSMo, and] 660.403 to 660.420, it may seek, among other remedies,  
11 injunctive relief against the adult day care program.

660.418. The director of the division shall have the authority to promulgate rules  
2 pursuant to this section and chapter 536, RSMo, in order to carry out the provisions of sections  
3 [199.025, RSMo, and] 660.403 to 660.420. No rule or portion of a rule promulgated under the  
4 authority of [section 199.025, RSMo, and] sections 660.403 to 660.420 shall become effective  
5 unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

660.420. 1. Any person who violates any provision of sections [199.025, RSMo, and]  
2 660.403 to 660.420, or who, for himself or for any other person, makes materially false  
3 statements in order to obtain a certificate or license, or the renewal thereof, issued pursuant to  
4 sections [199.025, RSMo, and] 660.403 to 660.420, shall be guilty of a class A misdemeanor.

5       2. Any person who is convicted pursuant to this section shall, in addition to all other  
6 penalties provided by law, have any license issued to him under sections [199.025, RSMo, and]  
7 660.403 to 660.420 revoked, and shall not operate, nor hold any license to operate, any adult day  
8 care program, or other entity governed by the provisions of sections 199.025, RSMo, and  
9 660.403 to 660.420 for a period of three years after such conviction.

[141.265. 1. In order to provide for the orderly implementation of, and  
2 notwithstanding other provisions of sections 141.210 to 141.810, the periods of  
3 delinquency upon which proceedings to foreclose the tax lien as otherwise authorized  
4 by sections 141.210 to 141.810 shall be as follows:

5       (1) Proceedings commenced in 1983 shall be for enforcement of the tax lien  
6 on tax bills billed 1978 and 1979 and falling delinquent in the calendar years 1979  
7 and 1980;

8       (2) Proceedings commenced in 1984 shall be for enforcement of the tax lien  
9 of tax bills billed 1980 and 1981 and falling delinquent in the calendar years 1981  
10 and 1982;

11       (3) Proceedings commenced after December 31, 1984, on bills billed in 1982  
12 and thereafter shall be for the enforcement of the tax lien on tax bills as otherwise  
13 provided by sections 141.210 to 141.810.

14       2. Subsection 1 of this section shall terminate on December 31, 1984, but the  
15 termination shall not impair or invalidate any proceeding brought pursuant to sections  
16 141.210 to 141.810, pending on that date.]

[142.027. 1. As used in this section, the following terms mean:

2       (1) "Fuel ethanol", one hundred ninety-eight proof ethanol denatured in  
3 conformity with United States Bureau of Alcohol, Tobacco and Firearms' regulations  
4 and fermented and distilled in a facility whose principal (over fifty percent) feed  
5 stock is cereal grain or cereal grain by-products;

6       (2) "Fuel ethanol blends", a mixture of ninety percent gasoline and ten

7 percent fuel ethanol in which the gasoline portion of the blend or the finished blend  
8 meets the American Society for Testing and Materials - specification number D-439.

9 2. Notwithstanding any other law to the contrary, the rate of the license tax  
10 imposed by section 142.020 on qualified fuel ethanol blends used in propelling motor  
11 vehicles upon the public highways of Missouri is two cents per gallon less than the  
12 rate of tax stated in section 142.025, until July 1, 1996.

13 3. The state highways and transportation department fund shall be  
14 reimbursed from the state general revenue fund in the amount not to exceed two cents  
15 per gallon for each gallon of ethanol blend motor fuel taxed at a rate of taxation  
16 which is a maximum of two cents below the tax imposed on all other motor fuel sold  
17 in this state for propelling motor vehicles on the public highways of this state. The  
18 department of transportation, by December first of each year, shall determine from  
19 the reports filed by distributors with the department of revenue the number of gallons  
20 of ethanol blended motor fuel sold in this state for propelling motor vehicles upon  
21 the highways of this state during the preceding fiscal year ending on June thirtieth of  
22 that year. The department of transportation shall certify the number of gallons so  
23 derived to the respective chairpersons of the senate appropriations committee and the  
24 house budget committee by the last day of December. The figures and exemption  
25 credits so certified shall be the amount of reimbursement to be appropriated annually  
26 to the state highways and transportation department fund from the state general  
27 revenue fund.]

2 [173.710. Sections 173.700, 173.705, 173.708 and this section shall expire  
3 on January 1, 1996, if the midwestern higher education compact does not become  
effective prior to December 31, 1995.]

2 [192.010. 1. The department of health shall have such duties and powers as  
3 are assigned by law. The department of health shall also have control and  
4 administration over the Missouri rehabilitation center at Mt. Vernon as provided by  
5 law. The department of health shall also have such jurisdiction over the accounts of  
6 city and county tuberculosis hospitals as is imposed by law. The cancer commission  
of the state of Missouri is hereby assigned to the department of health.

7 2. This section shall terminate thirty days following the date notice is  
8 provided to the revisor of statutes that an agreement has been executed which  
9 transfers the Missouri rehabilitation center from the department of health to the board  
10 of curators of the University of Missouri.]

2 [199.020. 1. The following officers and their families shall, with the  
3 permission of the department of health, reside on the premises or other property of  
4 the center: center director, assistant director, physicians, and other personnel  
5 required for the center's operation as recommended by the center's director.  
6 Personnel residing at the center shall pay a monthly rental determined annually at the  
7 lower of cost or fair market value; except that the center director, with the approval  
8 of the director of the department of health, may establish a lower rate as required to  
fill the center's personnel needs.

9 2. This section shall terminate thirty days following the date notice is

provided to the revisor of statutes that an agreement has been executed which transfers the Missouri rehabilitation center from the department of health to the board of curators of the University of Missouri.]

[199.025. 1. Employees of the Missouri rehabilitation center may organize and file with the secretary of state an application as a not for profit corporation for the purpose of establishing a child day care center. The corporation so formed may enter into an agreement with the commissioner of administration for the lease of appropriate space at the rehabilitation center for use as the child day care center. The space at the center may be made available to the corporation at a rate to be established by the commissioner of administration.

2. The corporation may provide child day care at the Missouri rehabilitation center. The child day care center established by the corporation shall be licensed under the provisions of sections 210.201 to 210.245, RSMo. The operation of the day care center shall be paid for by fees or charges, established by the corporation, and collected from those who use its services. The corporation may receive any private donations or grants from agencies of the federal government intended for the support of the child day care center.

3. This section shall terminate thirty days following the date notice is provided to the revisor of statutes that an agreement has been executed which transfers the Missouri rehabilitation center from the department of health to the board of curators of the University of Missouri.]

[630.461. 1. There is hereby created in the department of mental health a committee to be known as the "Review Committee for Purchasing" to review the manner in which the department of mental health purchases services for persons with mental health disorders and substance abuse problems. By December 31, 1995, the committee shall recommend to the governor and the general assembly any changes that should be made in the department of mental health purchasing systems, including whether the department should follow a competitive purchasing model and, if so, the time frame for initiating such change. The recommendation of the committee shall be made in the context of state and national health care reform and with the goal of providing effective services in a coordinated and affordable manner.

2. The review committee on purchasing created in subsection 1 of this section shall be composed of nine members as follows:

(1) One member of the mental health commission, appointed by the governor;

(2) One representative of the office of administration, appointed by the governor;

(3) The governor or his designee;

(4) Two members appointed at large by the governor, with one member representing the business community and one public member;

(5) Two members, appointed at large by the governor, with one member being a private provider and one member being affiliated with a hospital;

(6) Two members, appointed at large by the governor, who are consumers

of mental health services or family members of consumers of mental health services.

3. The review committee established in subsection 1 of this section shall be disbanded on January 1, 1996.

4. Notwithstanding any other provision of law to the contrary, beginning July 1, 1997, if the review committee failed to make the recommendations to the governor and the general assembly as required in subsection 1 of this section, the department of mental health may contract directly with vendors operated or funded pursuant to sections 205.975 to 205.990, RSMo, or operated or funded pursuant to sections 205.968 to 205.973, RSMo, without competitive bids. All contracts with vendors who are providers of a consortium of treatment services to the clients of the division of comprehensive psychiatric services shall be awarded in accordance with chapter 34, RSMo.]

[640.169. Sections 640.170 to 640.218 shall terminate July 1, 1996. Moneys in the local government energy conservation loan fund and the industrial commercial energy conservation loan fund shall be transferred to the energy set-aside energy fund and the local government energy conservation loan fund and the industrial commercial energy conservation loan fund shall be abolished.]

[640.170. As used in sections 640.170 to 640.185, the following terms mean:

(1) "Application cycle", the period of time each year, as determined by the department, that the department shall accept and receive applications from local governments seeking loans under the provisions of sections 640.170 to 640.185;

(2) "Building", any structure owned and operated by a local government that includes a heating or cooling system, or both;

(3) "Department", the department of natural resources;

(4) "Energy conservation loan account", an account to be established on the books of a local government for purposes of tracking information related to the receipt or expenditure of loan funds, and to be used to receive and remit energy cost savings for purposes of making semiannual payments to retire the loan;

(5) "Energy conservation project" or "project", the design, acquisition and installation of one or more energy conserving devices, measures or modifications to a building or facility to reduce energy consumption or to allow for the use of alternative or energy resources;

(6) "Energy cost savings" or "savings", the value, in terms of dollars, that has or shall accrue from energy savings due to implementation of an energy conservation project;

(7) "Estimated simple payback", the estimated cost of a project divided by the estimated energy cost savings, usually expressed in terms of months or years;

(8) "Facility", any major energy using system owned and operated by a local government, whether or not housed in a building;

(9) "Fund", the local government energy conservation loan fund established in section 640.180;

(10) "Loan agreement", a document signed and agreed to by the governing body of the local government and the department that details all terms and

requirements under which the loan was issued, and describes the terms under which the loan repayment shall be made;

(11) "Local government", any city, county or village, or any subdistrict of a zoological park and museum district as such subdistricts are defined in section 184.352, RSMo;

(12) "Payback score", a numeric value derived from the review of an application, calculated as prescribed by the department, which is used solely for purposes of ranking applications for the selection of loan recipients from within the balance of loan funds available;

(13) "Project cost", all costs determined by the department to be directly related to the implementation of an energy conservation project;

(14) "Repayment period", unless otherwise negotiated as required under section 640.177, the period in years required to repay a loan as determined by the projects' estimated simple payback and rounded to the next year in cases where the estimated simple payback is in a fraction of a year;

(15) "Technical assistance report", a specialized engineering report that identifies and specifies the quantity of energy savings and related energy cost savings that are likely to result from the implementation of one or more energy conservation measures;

(16) "Unobligated balance", that amount in the fund that has not been dedicated to any local government at the end of each state fiscal year.]

[640.172. 1. At the direction of its governing body, a local government may submit an application for loan funds to the department of natural resources for the purpose of financing all or a portion of the costs incurred in implementing an energy conservation project in a local government owned and operated building or facility. The application shall be accompanied by a technical assistance report that shall be in such form and contain such information as prescribed by the department. This section shall not preclude any local government from joining in a cooperative project with any other local governments or with any state or federal agency or entity in an energy conservation project, providing all other requirements of sections 640.170 to 640.185 are met.

2. All applications shall be assigned a payback score derived from the application review performed by the department. Applications shall be selected for loans beginning with the lowest payback score and continuing in ascending numeric order to the highest payback score until all available loan funds have been obligated within any given application cycle. In no case shall a loan be made to finance an energy project with a payback score of less than six months or more than eight years. Applications may be approved for loans only in those instances where the local government has furnished the department information satisfactory to assure that the project cost will be recovered through energy cost savings during the repayment period of the loan. In no case shall a loan be made to a local government unless a majority of the members of the governing body vote to approve the loan agreement.]

[640.175. Annually, at the conclusion of each state fiscal year, each local

2 government which has received a loan pursuant to the provisions of sections 640.170  
3 to 640.185 shall compute the actual energy cost savings resulting from the  
4 implementation of the energy conservation project financed by the loan. Energy cost  
5 savings shall be calculated in the manner prescribed by the department and reported  
6 to the department during the period of the loan.]

2 [640.177. 1. Each local government to which a loan has been made under  
3 sections 640.170 to 640.185 shall repay such loan, with interest, in semiannual  
4 payments. The rate of interest shall be the rate required by the department of natural  
5 resources. The number, amounts and timing of the semiannual payments shall be as  
6 determined by the department.

2 2. Any local government which receives a loan through the provisions of  
3 sections 640.170 to 640.185 shall annually budget an amount which is at least  
4 sufficient to make the semiannual payments required under this section.

2 3. The local government shall not raise the funds needed to make the  
3 semiannual loan payment by the levy of additional taxes. The semiannual loan  
4 payments shall be derived solely from energy cost savings resulting from the  
5 implementation of the project. In the event that energy cost savings resulting from  
6 the project fail to equal or exceed the amount of the semiannual payment, the local  
7 government and the department shall renegotiate the repayment period in such a  
8 manner as to assure that the semiannual payment amount does not exceed the actual  
9 energy cost savings resulting from the project.

2 4. If a local government fails to remit a semiannual payment to the  
3 department in accordance with this section within sixty days of the due date of such  
4 payment, the department of natural resources shall notify the director of the  
5 department of revenue to deduct such payment amount from the next regular  
6 apportionment of local sales tax distributions to that jurisdiction. Such amount shall  
7 then immediately be deposited in the fund.

2 5. All local governments having received loans pursuant to sections 640.170  
3 to 640.185 shall remit the semiannual payments required by subsection 1 of this  
4 section to the department. The department shall immediately deposit such payments  
5 in the local government energy conservation loan fund.]

2 [640.179. 1. A local government receiving a loan under the provisions of  
3 sections 640.170 to 640.185 shall establish on its books an energy conservation loan  
4 account which it shall maintain until such time as the loan obligation has been repaid.  
5 Information sufficient to indicate the receipt and expenditure of all funds authorized  
6 and allowed under the terms of the loan shall be entered in this account.

2 2. The local government shall maintain all internal records directly related  
3 to the loan and the project in such a way as to provide for proper auditing of the  
4 project.]

2 [640.180. 1. The state treasurer shall establish, maintain, and administer a  
3 special trust fund to be administered by the department and to be known as the "Local  
4 Government Energy Conservation Loan Fund", which is hereby established. When  
appropriated by the general assembly, moneys from the fund shall be used to provide

5 local governments with loans for the purpose of implementing energy conservation  
6 projects under the provisions of sections 640.170 to 640.185.

7 2. It is the intent of sections 640.170 to 640.185 to use oil overcharge moneys  
8 as the primary funding source for its implementation. Upon appropriation by the  
9 general assembly, that amount shall be deposited into the fund from the petroleum  
10 violation escrow fund. In addition, the department is authorized to receive and credit  
11 to the fund any federal funds, gifts, bequests, donations or any other moneys so  
12 designated, including general revenue appropriations. All money received pursuant  
13 to section 640.177, and all interest earned on and income generated from such  
14 moneys shall immediately be paid to and deposited in the local government energy  
15 conservation loan fund.

16 3. The full balance, or any portion thereof, of the fund shall be available to  
17 be issued and reissued for loans as authorized by sections 640.170 to 640.185.  
18 Following appropriation by the general assembly, the department may expend interest  
19 earned on the local government energy conservation loan fund, for the administration  
20 of the local government loan program contained in sections 640.170 to 640.185.

21 4. The commissioner of administration shall disburse such moneys at such  
22 times from the fund as are authorized by the department pursuant to section 640.172.

23 5. Except as otherwise provided in sections 640.170 to 640.185, the  
24 provisions of section 33.080, RSMo, requiring the transfer of unexpended funds to  
25 the general revenue fund of the state shall not apply to funds in the local government  
26 energy conservation loan fund.]

[640.182. 1. A loan made pursuant to sections 640.170 to 640.185 shall be  
2 used only for the purposes specified in an approved application. In the event the  
3 department determines that a loan has been expended for purposes other than those  
4 specified in an approved application, it shall immediately request the return of the  
5 full amount of the loan. If a local government fails to remit repayment to the  
6 department within sixty days of notification, collection shall be made through the  
7 provisions outlined in subsection 4 of section 640.177.

8 2. The department may, at its discretion, audit the expenditure of any loan  
9 made pursuant to sections 640.170 to 640.185 or the computation of any payment  
10 made pursuant to section 640.177.

11 3. The department shall promulgate such rules and regulations as are  
12 necessary for the administration of sections 640.170 to 640.185. No rule or portion  
13 of a rule promulgated under the authority of sections 640.170 to 640.185 shall  
14 become effective unless it has been promulgated pursuant to the provisions of section  
15 536.024, RSMo.]

[640.185. 1. All moneys from sources other than state appropriations which  
2 are specified to be used for purposes identified under the provisions of sections  
3 640.170 to 640.185 shall be handled in the same manner as moneys received through  
4 state appropriations unless otherwise required in agreements or regulations with the  
5 sources from which such moneys are obtained. The director of the department of  
6 natural resources shall certify that the use of all such moneys and any required



7 agreements or regulations are consistent with sections 640.170 to 640.185, and all  
8 other state and federal laws governing such moneys, agreements and regulations.

9 2. Loanmaking authority under sections 640.170 to 640.185 shall cease as of  
10 January 1, 1998.

11 3. All moneys remaining in the fund plus accrued interest and the proceeds  
12 from repayments of outstanding loans shall be disbursed in a manner consistent with  
13 the rules, regulations, statutes or federal court orders governing the original source  
14 of the moneys.

15 4. All authorizations under sections 640.170 to 640.185 shall expire on  
16 January 1, 2006.]

1 [640.195. 1. It is the intention of the general assembly that sections 640.195  
2 to 640.218 are to be implemented so that loan funds are provided to small businesses  
3 in order for such small businesses to implement energy conservation projects and  
4 reduce their overall energy costs and consumption.

5 2. As used in sections 640.195 to 640.218, the following terms mean:

6 (1) "Applications cycle", the period of time each year, as determined by the  
7 department, that the department shall accept and receive applications seeking loans  
8 under the provisions of sections 640.195 to 640.218;

9 (2) "Authority", the environmental improvement and energy resources  
10 authority;

11 (3) "Building", any occupied structure that is owned and operated by an  
12 applicant business and which includes a heating or cooling system, or both;

13 (4) "Department", the department of natural resources;

14 (5) "Energy conservation project" or "project", the design, acquisition and  
15 installation of one or more energy conserving devices, measures or modifications to  
16 a building or facility to reduce energy consumption, to increase energy efficiency or  
17 to allow for the use of alternative energy resources;

18 (6) "Energy cost savings" or "savings", the value in terms of dollars that has  
19 or shall accrue from energy savings due to implementation of an energy conservation  
20 project;

21 (7) "Estimated simple payback", the estimated cost of a project divided by  
22 the estimated energy cost savings;

23 (8) "Facility", any major energy-using system owned and operated by an  
24 applicant business, whether or not housed in a building;

25 (9) "Fund", the industrial/commercial energy conservation loan fund  
26 established in section 640.207;

27 (10) "Loan agreement", a document signed and agreed to by authorized  
28 officials or principals in the applicant business and the department that details all  
29 terms and requirements under which the loan was issued and describes the terms  
30 under which the loan repayment shall be made;

31 (11) "Payback score", a numeric value derived from the review of an  
32 application, calculated as prescribed by the department, which is used solely for  
33 purposes of ranking applications for the selection of loan recipients within the

balance of loan funds available;

(12) "Project cost", all costs determined by the department to be directly related to the implementation of an energy conservation project;

(13) "Repayment period", unless otherwise renegotiated as required under section 640.203, the period in years required to repay a loan as determined by the project's estimated simple payback and rounded to the next year in cases where the estimated simple payback is in a fraction of a year;

(14) "Technical assistance report", a specialized engineering report that identifies and specifies the quantity of energy savings and related energy cost savings that are likely to result from the implementation of one or more energy conservation measures;

(15) "Unobligated balance", that amount in the fund that has not been dedicated to energy conservation projects at the end of each state fiscal year.]

[640.200. 1. An application for loan funds may be submitted to the department for the purpose of financing all or a portion of the costs incurred in implementing an energy conservation project in a facility owned and operated by the applicant. The application shall be accompanied by a technical assistance report. If the applicant pays more than ten percent of the loan for the technical assistance report, the loan shall be denied. The application and the technical assistance report shall be in such form and contain such information as prescribed by the department.

2. All applications shall be assigned a payback score derived from the application review performed by the department. Applications shall be selected for loans beginning with the lowest payback score until all available loan funds have been obligated within any given application cycle. In no case shall a loan be made to finance an energy project with a payback score of less than six months or more than five years. Applications may be approved for loans only in those instances where the applicant has furnished the department information satisfactory to assure that the project cost will be recovered through energy cost savings during the repayment period of the loan.

3. All applications for loans or permits shall be approved or disapproved within ninety days or stand approved as submitted.

4. The department shall not issue a loan for more than one hundred fifty thousand dollars for any one energy conservation project.]

[640.203. 1. Each applicant to which a loan has been made under sections 640.195 to 640.218 shall repay such loan with interest in semiannual payments. The rate of interest shall be the rate required by the funding source. The amount and timing of the semiannual payments shall be as determined by the department.

2. In the event that energy cost savings resulting from the project fail to equal or exceed the amount of the semiannual payment, the applicant and the department shall renegotiate the repayment period in such a manner as to assure that the semiannual payment amount does not exceed the actual energy cost savings resulting from the project.

3. All businesses which have received loans pursuant to sections 640.195 to

11 640.218 shall remit the semiannual payments required by subsection 1 of this section  
12 to the department. The department shall immediately deposit such payments in the  
13 industrial/commercial energy conservation loan fund.]

2 [640.205. 1. A business receiving a loan under the provisions of sections  
3 640.195 to 640.218 shall establish on its books an energy conservation loan account  
4 which the business shall maintain until such time as the loan obligation has been  
5 repaid. Information sufficient to indicate the receipt and expenditure of all funds  
6 authorized and allowed under the terms of the loan shall be entered in this account.

7 2. The business shall maintain all internal records directly related to the loan  
and the project in such a way as to provide for proper auditing of the project.]

2 [640.207. 1. The state treasurer shall establish and maintain a special trust  
3 fund to be administered by the department and to be known as the  
4 "Industrial/Commercial Energy Conservation Loan Fund", from which Missouri  
5 industrial and commercial businesses may seek and obtain loans for the purpose of  
6 implementing energy conservation projects under the provisions of sections 640.195  
to 640.218.

7 2. All moneys duly authorized and appropriated by the general assembly, all  
8 moneys received from federal funds, gifts, bequests, donations or any other moneys  
9 so designated, all moneys received pursuant to section 640.203, and all interest  
10 earned on and income generated from moneys in the fund shall immediately be paid  
11 to and deposited in the industrial/commercial energy conservation loan fund.

12 3. Moneys in the fund including moneys from repayments of loans by  
13 business recipients, as specified in section 640.203, shall be available to be reissued  
14 for loans as authorized in sections 640.195 to 640.218. After appropriation by the  
15 general assembly, the department may expend the interest earned on the  
16 industrial/commercial energy conservation loan fund for the administration of  
17 sections 640.195 to 640.218.

18 4. The commissioner of administration shall disburse such moneys from the  
19 fund at such times as are authorized by the department.

20 5. Except as otherwise provided in sections 640.195 to 640.218, the  
21 provisions of section 33.080, RSMo, requiring the transfer of unexpended funds to  
22 the ordinary revenue funds of the state shall not apply to funds in the  
23 industrial/commercial energy conservation loan fund.]

2 [640.210. 1. A loan made pursuant to sections 640.195 to 640.218 shall be  
3 used only for the purposes specified in an approved application. In the event the  
4 department determines that a loan has been expended for purposes other than those  
5 specified in an approved application, it shall immediately request the return of the  
6 full amount of the loan. If an applicant fails to remit repayment to the department  
7 within sixty days of notification, the director of the department shall request the  
8 attorney general to file suit in a court of competent jurisdiction to recover repayment  
plus interest accrued from the date of the department's initial request for repayment.

9 2. The department may, at its discretion, audit the expenditure of any loan  
10 made pursuant to sections 640.195 to 640.218 or the computation of any payment

11 made pursuant to section 640.203.]

2 [640.212. Under the provisions of sections 640.195 to 640.218, the  
3 department shall establish such procedures, policies and qualifications as may be  
4 necessary for the administration of sections 640.195 to 640.218.]

2 [640.215. 1. All moneys from sources other than state appropriations which  
3 are specified to be used for purposes identified under the provisions of sections  
4 640.195 to 640.218 shall be handled in the same manner as moneys received through  
5 state appropriations unless otherwise required in agreements or regulations with the  
6 sources from which such moneys are obtained. The department director shall certify  
7 that the use of all such moneys and any required agreements or regulations are  
8 consistent with the intent of sections 640.195 to 640.218 and all other state and  
9 federal laws governing such moneys, agreements and regulations.

2 2. The division of energy of the department of natural resources shall  
10 annually report to the appropriate standing committees of jurisdiction within the  
11 general assembly regarding the effectiveness of the industrial/commercial energy  
12 conservation loan program, the total number of participants and dollars committed,  
13 energy savings realized, and projected future participation.]

2 [640.218. 1. The department may act jointly with the authority to make loans  
3 to Missouri industrial and commercial businesses out of the proceeds of revenue  
4 bonds issued by the authority, which loans shall be for energy conservation and  
5 improvements, energy efficiency and alternative energy resources.

2 2. Revenue bonds issued by the authority, the proceeds of which are to be  
6 lent pursuant to this section, shall be issued and administered in accordance with the  
7 terms and conditions established in sections 260.005 to 260.125, RSMo, after  
8 approval by the general assembly.]